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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Steven Thomas Slunick

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

EXAMINER

KEE, FANNIE C

ART UNIT

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DELIVERY MODE

10/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/559,621	Applicant(s) SLUNICK ET AL.	
	Examiner Fannie Kee	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9, 13-18 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 13-18, and 20-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

3DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 20 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 20 recites “said locating feature including a first locating feature and a second locating feature, and said fluid port includes said first locating feature and said tube includes said second locating feature”. How can the locating feature include a first locating feature located on the fluid port and a second locating feature located on the tube if the locating feature is defined as one locating feature? Examiner is interpreting that Applicant is trying to say that there are two separate locating features one on the fluid port and one on the tube.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Imoehl U.S.

Patent No. 5,105,787.

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With regard to claim 1, Imoehl discloses a fluid connection assembly comprising:

- a housing (12) including a fluid port (28), and the housing is made of a first material;
- a tube (14) made of a second material dissimilar to the first material;
- a seal (32) located between the tube and the fluid port;
- a retainer (34) to secure the fluid port to the tube; and
- a locating feature (44) to prevent relative rotation between the fluid port of the housing and the tube.

With regard to claim 2, Imoehl discloses the first material being plastic and the second material being metal (see Figure 1).

With regard to claim 3, Imoehl discloses the housing being a manifold (see Figure 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Imoehl.

With regard to claim 4, Imoehl discloses the claimed invention but does not expressly disclose that the tube is made of aluminum.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the tube from aluminum because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 5, Imoehl discloses the claimed invention but does not disclose that the retainer is made of plastic.

However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have fabricated the retainer from plastic because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

7. Claims 1, 6, 7, 13, 14, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew U.S. Patent No. 5,826,920.

With regard to claim 1, and as seen in Figure 1, Bartholomew discloses a fluid connection assembly comprising:

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a housing (22, 28) including a fluid port;
a tube (24);
a seal (26) located between the tube and the fluid port;
a retainer (90) to secure the fluid port to the tube; and
a locating feature (96) to prevent relative rotation between the fluid port of the housing and the tube.

However, Smith does not teach that the housing is made of a first material and the tube made of a second material dissimilar to the first material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the housing of a first material and the tube of a second material dissimilar to the first material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 6, and as seen in Figure 1, Bartholomew discloses the fluid port (22, 28) being inserted into the tube (24), and the fluid port includes an annular collar (28) and the tube includes a flared end (64) that abuts the annular collar.

With regard to claim 7, and as seen in Figure 1, Bartholomew discloses the retainer (90) being molded over the annular collar of the fluid port and the flared end of the tube.

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With regard to claim 13, and as seen in Figure 1, Bartholomew discloses a fluid connection assembly comprising:

a manifold (22) including a fluid port, and the fluid port includes an annular collar (28) and an annular recess;

a metal tube (24) including a flared end (64), and the flared end abuts the annular collar of the fluid port;

a seal (26) received in the annular recess of the fluid port, and the seal is located between the metal tube and the fluid port; and

a retainer (90) molded over the annular collar and the flared end to secure the fluid port to the metal tube.

However, Bartholomew does not disclose that the manifold or the retainer is formed of a plastic material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the manifold and the retainer of plastic because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 14, and as seen in Figure 1, Bartholomew discloses at least one of the fluid port and the metal tube including a locating feature (96), and the material of the retainer being received in the locating feature to prevent relative rotation between the fluid port of the manifold and the tube.

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With regard to claim 20, and as seen in Figure 1, Bartholomew discloses said locating feature including a first locating feature and a second locating feature, and said fluid port including said first locating feature (96) and said tube including said second locating feature (78).

With regard to claim 21, and as seen in Figure 1, Bartholomew discloses an annular collar (28) of said fluid port including said first locating feature (96) and a flared end (64) of said tube including said second locating feature (78).

With regard to claim 22, Bartholomew discloses the claimed invention but does not disclose said fluid connection assembly being part of a water heater system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the fluid connection assembly be a part of a water heater system because a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

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With regard to claim 23, Bartholomew discloses the claimed invention but does not disclose said fluid connection assembly being part of an air conditioning system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the fluid connection assembly be a part of an air conditioning system because a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152 USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

With regard to claim 24, Bartholomew discloses the claimed invention but does not disclose said fluid connection assembly being part of a hydraulic system.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have the fluid connection assembly be a part of a hydraulic system because a recitation with respect to the manner in which an apparatus is intended to be employed does not impose any structural limitation upon the claimed apparatus which differentiates it from a prior art reference disclosing the structural limitations of the claim. In re Pearson, 494 F.2d 1399, 181 USPQ 641 (CCPA 1974); In re Yanush, 477 F.2d 958, 177 USPQ 705 (CCPA 1973); In re Finsterwalder, 436 F.2d 1028, 168 USPQ 530 (CCPA 1971); In re Casey, 370 F.2d 576, 152

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USPQ 235 (CCPA 1967); In re Otto, 312 F.2d 937, 136 USPQ 458 (CCPA 1963); Ex parte Masham, 2 USPQ2d 1647 (BdPatApp & Inter 1987).

8. Claims 1, 8, 9, and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith U.S. Patent No. 5,002,314.

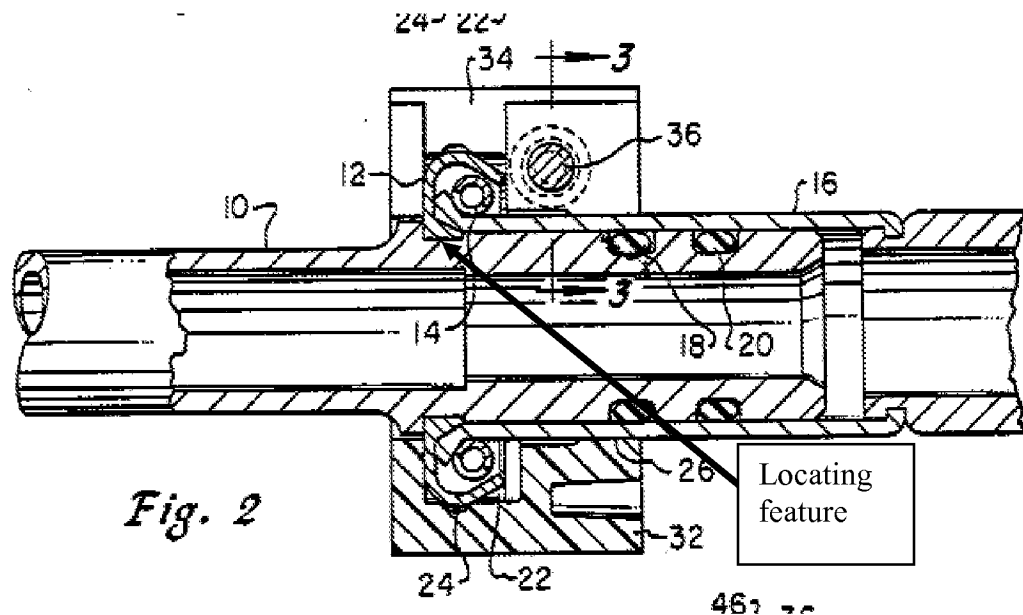
With regard to claim 1, and as shown in Figure 2 below, Smith discloses a fluid connection assembly comprising:

- a housing (10) including a fluid port;
- a tube (16);
- a seal (18) located between the tube and the fluid port;
- a retainer (12) to secure the fluid port to the tube; and
- a locating feature to prevent relative rotation between the fluid port of the housing and the tube.

However, Smith does not teach that the housing is made of a first material and the tube made of a second material dissimilar to the first material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the housing of a first material and the tube of a second material dissimilar to the first material because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

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With regard to claim 8, and as shown in Figure 2 above, Smith discloses the fluid port includes at least one annular recess that receives the seal.

With regard to claim 9, and as shown in Figure 2 above, Smith discloses at least one of the fluid port and the tube including the locating feature, and the material of the retainer being received in the locating feature to prevent relative rotation between the fluid port of the housing and the tube.

With regard to claim 15, and as shown in Figure 2 above, Smith discloses a method of assembling a fluid connection comprising the step of:

- attaching a fluid port (22) of a housing to a metal tube (24);
- locating a seal (26) between the metal tube and the fluid port;
- retaining (90) the fluid port to the metal tube; and

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preventing rotation between the fluid port of the housing and the metal tube (see locating feature in Figure 2 above).

However, Smith does not disclose that the housing is formed of a plastic material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the housing of plastic because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

With regard to claim 16, and as shown in Figure 2 above, Smith discloses the step of inserting the fluid port into the metal tube.

With regard to claim 17, and as shown in Figure 2 above, Smith discloses the step of preventing over insertion of the metal tube during the step of inserting the fluid port into the metal tube (the connection at 28 and 64).

With regard to claim 18, and as shown in Figure 2 above, Smith discloses the step of retaining including molding a retainer (90) over a joint of the metal tube and the fluid housing.

However, Smith does not disclose that the retainer is formed of a plastic material.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have formed the retainer of plastic because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. In re Leshin, 125 USPQ 416.

Response to Arguments

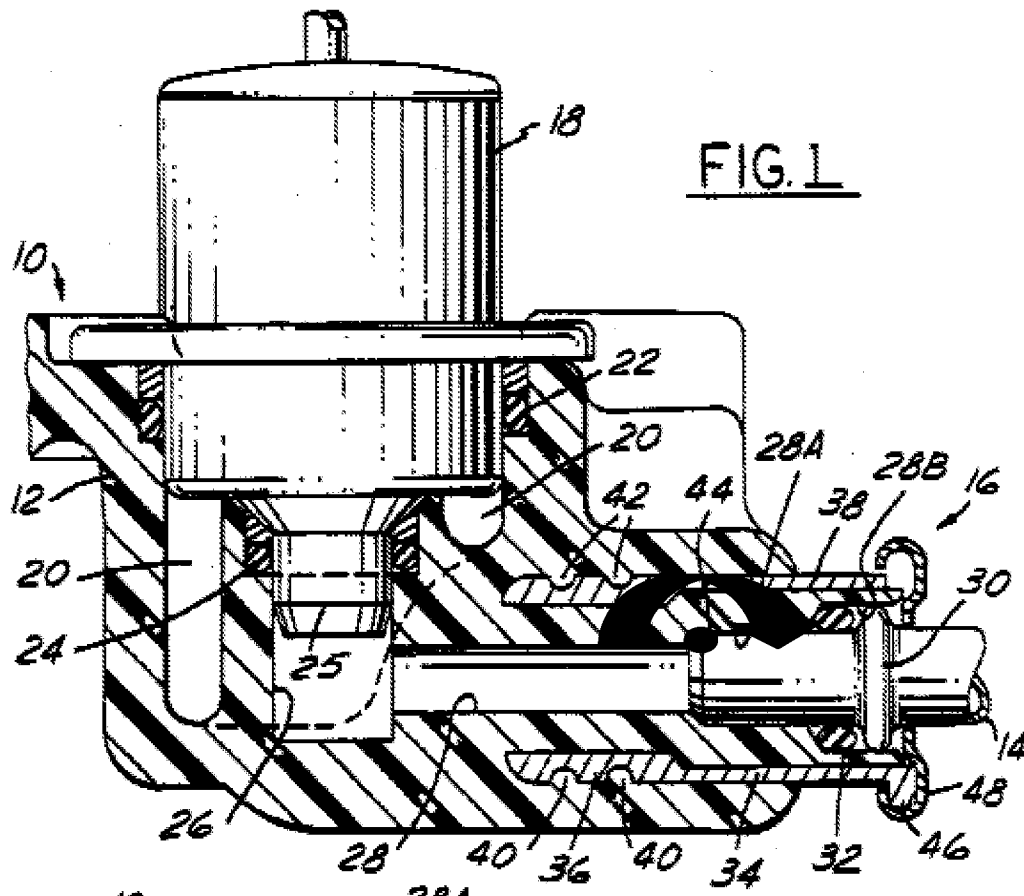
9. Applicant's arguments filed 7/17/08 have been fully considered but they are not persuasive.

a. Applicant argues that Imoehl does not disclose a locating feature which is equivalent to Applicant's locating feature because it does not prevent relative rotation between the fuel rail 12 and the tube 14.

Examiner disagrees.

Applicant has not defined what type of relative rotation is being prevented. As shown below, the locating feature in Imoehl does prevent relative rotation between the fuel rail and the tube.

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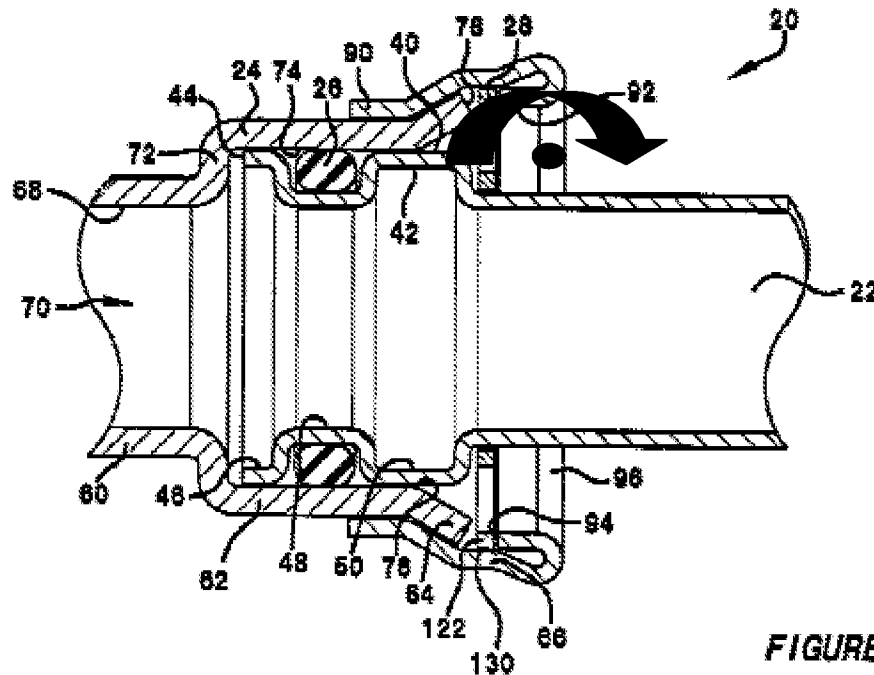


b. Applicant argues that Bartholomew does not disclose a locating feature which is equivalent to Applicant's locating feature because it does not prevent relative rotation between the fluid port of the housing and the tube.

Examiner disagrees.

Applicant has not defined what type of relative rotation is being prevented. As shown below, the locating feature in Bartholomew does prevent relative rotation between the fluid port of the housing and the tube.

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**FIGURE 1**

c. Applicant also argues that Bartholomew fails to disclose a manifold and instead discloses a male conduit and that Bartholomew discloses a quick connect and not a collar.

Examiner disagrees.

While anticipation requires the disclosure of each and every limitation of the claim at issue in a single prior art reference, it does not require such disclosure *in haec verba*. In re Bode, 550 F.2d 656, 660, 193 USPQ 12, 16 (CCPA 1977). In addition, it does not require that the prior art reference "teach" what the application at issue teaches. Kalman v. Kimberly-Clark Corp., 713 F.2d 760, 218 USPQ 781 (Fed. Cir. 1983).

Finally, Applicant is reminded that during examination claim limitations are to be given

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their broadest reasonable reading. In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989).

d. Applicant argues that Bartholomew teaches against providing a first material for the housing and a second material for the tube.

Examiner disagrees.

Bartholomew does not teach against providing a housing a first material and a tube of a second material just because a quick connect design is contemplated.

Bartholomew teaches that its invention is used to "join a pair of mating tubular members or conduits to one another" (column 2, lines 24-25). Bartholomew further teaches that "[f]or example, a flexible or rigid conduit may be coupled to an engine block, radiator or exhaust pipe" (column 2, lines 30-31).

e. Applicant argues that, in Smith, it would not have been obvious to have formed the housing of a first material and the tube of a second material.

Examiner disagrees.

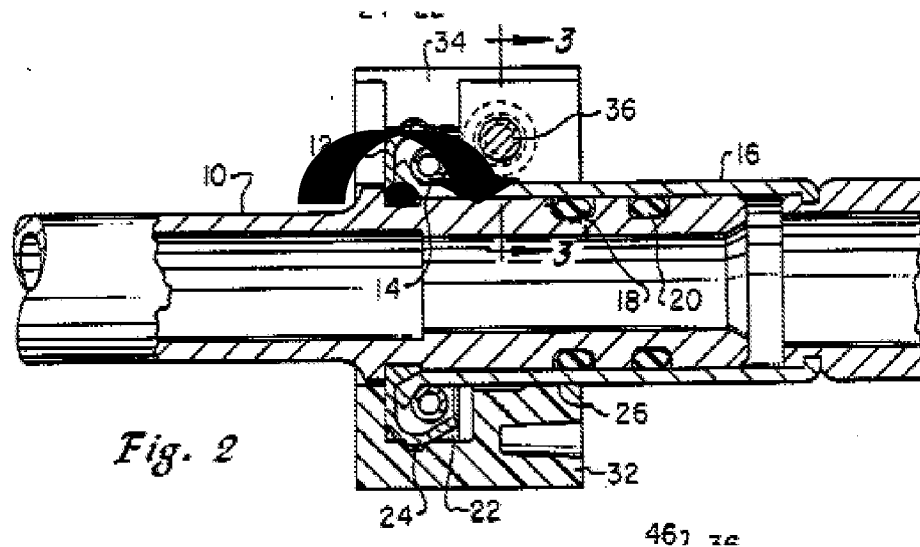
Applicant has not provided any explanations which would indicate the criticality of why it would not have been obvious to use two different types of material in Smith and only that it would not have been obvious.

f. Applicant argues that Smith does not disclose a locating feature to prevent relative rotation between the fluid port of the housing and the tube.

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Examiner disagrees.

Applicant has not defined what type of relative rotation is being prevented. As shown below, the locating feature in Smith does prevent relative rotation between the fluid port of the housing and the tube.



Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fannie Kee whose telephone number is (571) 272-1820. The examiner can normally be reached on 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571) 272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron M Dunwoody/
Primary Examiner, Art Unit 3679

/F. K./
Examiner, Art Unit 3679
October 27, 2008